

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6982

BILL NUMBER: SB 244

DATE PREPARED: Dec 21, 1998

BILL AMENDED:

SUBJECT: Annexation provisions.

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FUNDS AFFECTED: **GENERAL
DEDICATED
FEDERAL**

IMPACT: Local

Summary of Legislation: This bill has the following provisions:

(A) A municipality is required to mail notice of an annexation to the owners of property within the annexed territory not later than 60 days before the public hearing on the annexation. The municipality is required to publish notice of the public hearing at least 60 days before the date of the hearing. A municipality may not adopt an annexation ordinance within 30 days after the public hearing on the annexation.

(B) The bill allows an annexation to be appealed by filing a written remonstrance signed by the owners of more than 50%, rather than more than 75%, in assessed valuation of the land in the annexed territory. It allows a remonstrance to be filed not more than 90 days, rather than 60 days, after publication of the annexation ordinance.

(C) The bill removes the requirement that planned services of a noncapital nature and services of a capital improvement nature must be provided to the annexed territory in a manner equivalent to the services provided to areas within the municipality with similar topography, patterns of land use, and population density.

(D) If a court finds that a remonstrance is sufficient, the court shall order an annexation not to take place.

(E) It allows an owner of real property in the annexed territory or the municipality that is annexing the territory to file an action not more than 120 days after publication of the annexation ordinance, requesting a court to enter a judgment voiding the annexation ordinance on the grounds that the ordinance does not comply with legal requirements.

(F) A municipality is prohibited from making further attempts to annex territory for four years, rather than two years, after the later of the circuit or superior court judgment or the date of the final disposition of all

appeals, if the municipality is unsuccessful in annexing, unless the landowners in the annexed territory petition for annexation.

(G) A municipality is prohibited from making further attempts to annex territory for one year after the later of the circuit or superior court judgment or the date of the final disposition of all appeals if the court voids the annexation ordinance because the municipality failed to satisfy the legal requirements.

(H) The owners of more than 50% of the assessed valuation of land may file a petition with the municipal legislative body requesting an ordinance annexing the area described in the petition. (Current law provides that a petition must be filed by 51% of the owners of land in the annexed territory or the owners of 75% of the total assessed value of land in the annexed territory.)

(I) The municipality's fiscal plan is required to provide the following: (1) Itemized costs for each municipal department or agency for the planned services to be furnished to the territory to be annexed. (2) An explanation of how specific and detailed expenses will be funded. (3) The specific services that will be provided to the annexed territory and the dates the services will commence.

(J) The act applies to an annexation ordinance adopted after June 30, 1999.

(K) A court is required to order a territory to be disannexed if the municipality fails to implement the fiscal plan or provide services to the territory.

(L) If a municipality obtains a waiver of remonstrance from a landowner as a condition of connection to water or sewer service, the municipality shall file the waiver in the recorder's office of the county not later than 30 days after the date of the waiver.

(M) The Secretary of State and township trustee must receive annexation and disannexation filings.

(N) It makes a technical correction.

Effective Date: July 1, 1999.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: (A) This bill requires a municipality to provide, by certified mail, a written notice of a hearing concerning a proposed annexation to each owner of real property located within or adjoining the territory proposed to be annexed. If the notice is returned unclaimed or refused, the municipality shall mail the notice by regular mail (First Class mail). The notice requirement applies to a municipality that adopts an annexation ordinance after June 30, 1999. The cost of sending an article certified mail through the U.S. Postal Service is \$2.77 (\$1.35 for certification; \$0.32 postage; and \$1.10 for a return signed certification card). The cost of sending an article by First Class mail is \$0.32. Implementation of the notification provisions of this bill will increase the cost to a municipality since current law does not require the mailing of a notification of a public hearing of a proposed annexation. (The current law (IC 5-3-1) requires the notice of a public hearing to be published in a local newspaper(s).) The fiscal impact of this bill is indeterminable and dependent on the number of individuals that would receive notice of a proposed annexation public hearing.

(B), (D) and (K) If an annexation is not successful because of these provisions, the municipality annexing the territory would not be required to extend municipal services to the proposed territory.

(F) and (G) Currently, if a municipality attempts unsuccessfully to annex territory, the municipality may not make further attempts to annex the territory for two years. This bill would change from two years to four years the time in which a municipality may attempt to annex territory that the municipality had previously been unsuccessful in annexing. Additionally, this bill provides that a municipality is prohibited from making further attempts to annex territory for one year after the later of the Circuit or Superior Court judgment or the date of the final disposition of all appeals if the court voids the annexation ordinance because the municipality failed to satisfy the legal requirements. When territory is annexed, services need to be extended to that territory. The extension of services to this new territory would create additional expenditures for the municipality. The cost of extending services to the annexed territory would occur if the annexation is successful after the one year or four year waiting periods.

(C), (I), (J), (L), (M) and (N) These provisions have no fiscal impact.

Explanation of Local Revenues: (B) and (D) Under current law, when a municipality annexes territory, the annexation may be appealed by a majority of the landowners or the owners of more than 75% in assessed valuation of the land in the annexed territory. This appeal, or remonstrance, must be filed with the Circuit or Superior Court within 60 days after publication of the annexation ordinance.

When territory is annexed, the municipality's assessed value is increased along with its maximum levy. Taxpayers in the annexed territory must start paying property taxes to the municipality in addition to the taxes already paid. The annexed territory then gets the benefit of municipal services. This bill allows an annexation to be appealed by filing a written remonstrance signed by the owners of more than 50% in assessed valuation of the land in the annexed territory. It also gives the remonstrators up to 120 days instead of 60 days to file the remonstrance. The additional 60 days could give remonstrators more time to organize the number of landowners necessary to successfully appeal the annexation. If the appeal is successful the property owners would not have to pay the increased property taxes nor would they receive municipal services. The fiscal impact of this provision is dependent on the outcome of a remonstrance.

(E) This bill allows an owner of real property in the annexed territory or the municipality that is annexing the territory to file an action not more than 120 days after publication of the annexation ordinance, requesting a court to enter a judgment voiding the annexation ordinance on the grounds that the ordinance does not comply with legal requirements. As with a successful remonstrance, this provision could prevent an annexation from occurring. The property owners would not have to pay the increased property taxes nor would they receive municipal services.

(F) and (G) The annexation of property broadens the property tax base which tax rates are based on. The existing taxpayers in the municipality usually would experience a rate reduction and the annexed taxpayers usually experience a rate hike. If the municipality is successful in annexing territory after the one or four year waiting period, the tax shifts would occur.

(H) The reduction in the number of required individuals needed to file a petition with a municipal legislative body requesting an ordinance annexing the area described in the petition could promote an annexation to take place.

State Agencies Affected:

Local Agencies Affected: Annexing municipalities; Clerk of the municipality annexing territory; County Auditor and Circuit Court Clerk of each county in which the annexed territory is located; County Recorder.

Information Sources: U.S. Postal Service, Customer Information, (317) 464-6000.